

Response to Revised Hazardous Waste Regulation Comments

The Department of Environmental Management (the “Department”) is providing the following responses to the comments received at the July 21, 2005 Public Hearing and during the Public Comment period, which ended July 29, 2005.

Comments were received from the following individuals. The numbers enclosed in parenthesis refer to the responses that address the comments submitted by each individual.

Brad Wright, P.E., Safety-Kleen Corporation (See Responses # 1, 2 and 3)
Gary Ezovski, Lincoln Environmental (Response #4)

1. Fee increase significantly exceeds the rate of inflation:

It is true that the increase in hazardous waste fees exceeds the rate of inflation, however, the purpose of the fee increase was to stay revenue neutral while removing waste oil from the universe of waste for which a fee is charged.

In 2002, the Department met with stakeholders to discuss the hazardous waste fee. At the time, the Department included the fee on waste oil but intended to exempt this material at a later date. Since that time, the Department has become more acutely aware of the discriminatory effect the fee has by forcing those companies that ship to Massachusetts facilities to pay a fee because they are required by the Commonwealth of Massachusetts to use a manifest for waste oil. Consequently, the Department considered the alternatives below:

- Exempt all waste oil from the fee
- Exempting waste oil required to be on a manifest
- Continuing with the status quo

The task force, composed of industry representatives, selected the second alternative. They concluded that exempting all waste oil from the fee should not be selected if the Department wishes to discourage the use of hazardous waste manifests for non-hazardous waste. By having a blanket exemption, it would encourage (or at least not discourage) the use of hazardous waste manifests for waste oil not required to be shipped on a hazardous waste manifest.

A fee for waste oil has practical limits because much of it is not tracked on manifests and bills of lading are not routinely submitted to the Department. This would have created a new burden of reporting all waste oil on bills of lading to the Department. As has been discussed above, the status quo was thought to be unfair to some transporters/generators. The task force also suggested RIDEM charge a fee for large waste-oil burning sources. As this current round of changes does not include the used oil regulations, that could not be considered at this time.

2. The burden of collection of fees falls upon the transporter:

Originally a fee was proposed that was paid and collected directly from the generator. The task force, composed of representatives of private industry, was against this proposal because it forced the generator to not only pay the fee but be responsible for another layer of paperwork. The group suggested that the Department utilize a fee structure that was similar to the one used by Massachusetts. The most significant difference with the Massachusetts structure is that in Rhode Island, facilities that receive waste and re-generate the waste through bulking are not required to pay the fee.

3. The addition of an additional waste code, R015 is not needed.

In performing audits of hazardous waste fees, the Department feels it would be helpful if a manifest could identify a material as being exempt from the hazardous waste generator fee. This is why the regulations already include the “fee exempt” codes for household hazardous waste, waste generated by TSDF’s and precious metal bearing hazardous waste. The new uniform federal hazardous waste manifest rules that will take effect in September of 2006 will not allow any other fields or allow any description (like fee exempt) to be required on the manifest, therefore the Department has not identified an alternative to these waste codes to flag exempt waste.

4. Open nature of the process:

The Department appreciates the comment and will endeavor to keep the process as transparent and open to input as possible.